

# DR. AMBEDKAR: THE PRINCIPAL ARCHITECT OF THE CONSTITUTION OF INDIA

## Clause wise Discussion on the Draft Constitution

30th July 1949 to 16th September 1949

### SECTION SIX

#### Clausewise Discussion

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#### UNION LIST

##### ENTRY 81

**Shri Brajeshwar Prasad** : Mr. President, Sir, I beg to move :

" That for amendment No. 3572 of the List of amendments, the following be substituted:—

" That for entry 81 of List I, the following be substituted :—

" 81. Duties in respect of succession to property including agricultural land."

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**The Honorable Dr. B. R. Ambedkar**: I may mention, Sir, that this matter was considered at the conference with the Provincial Premiers. They were of opinion that, although the principle might be sound, they were at the present moment not prepared to make this radical change.

*[The amendment of Mr. Brajeshwar Prasad was withdrawn and Entry 81 was added to the Union List.]*

### ENTRY 83

**Mr. President:** There are two amendments to this.

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That in entry 83 of List I, after the word ' railway ' a comma and the word ' sea ' be inserted."

The intention is to complete the entry by the addition of the word " sea " which was inadvertently omitted.

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**The Honorable Dr. B. R. Ambedkar:** Sir, I cannot accept Dr. Deshmukh's amendment because the inclusion of the word " land " would also permit the Center to levy Terminal Tax on goods and passengers carried by " road". Under our scheme Terminal Taxes on goods and passengers carried by road will be a matter which will be exclusively within the jurisdiction of the different States. That is the principal objection why I cannot accept his amendment. You will remember. Sir, that he tried to move a similar amendment on another occasion which had been rejected by the House.

Now with regard to Mr. Sidhva, this matter again was debated last time and I said that although these taxes were leviable by the Center, the proceeds of all of them would be distributable among the different Provinces. The Center would not claim any interest. If the Provinces after getting the proceeds want to pass on any part of those proceeds to the local bodies they are free to do so. It is not possible in this Constitution to make a provision for any matter of taxation that may be available to a local authority. That is a matter *inter se* between the State and the local authority and therefore it is not possible now to alter this entry either by way of amending it or by way of transferring it to List No. II.

(Shri R. K. Sidhva and Dr. P. S. Deshmukh withdrew their amendments)

" That in entry 83 of List I, after the word ' railway ' a comma and the word ' sea ' be inserted."

*[The amendment of Dr. Ambedkar was adopted. Entry No. 83, as amended, was added to the Union List.]*

### ENTRY 86

(Amendment No. 54 was not moved)

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That in entry 86 of List I, the words ' non-narcotic drugs ' be deleted." The proposed list put non-narcotic drugs in the concurrent List.

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**The Honorable Dr. B. R. Ambedkar:** It is quite true, Sir, that at present this entry is in the provincial list. But, there are two facts to be recognised. One is that no province has at any time so far levied any tax on these items. Therefore, it has not been exploited by the provinces for their financial purposes. Secondly, even when the matter becomes concurrent, and any legislation is made by the Center, which has a revenue aspect, the revenue will be liable to be distributable under the provisions of clause (2) of article 253. Consequently, so far as finances are concerned, there is really no loss to the provinces at all. Then, it is necessary that we should have an All-India Drugs Act operating throughout the area. That cannot happen unless non-narcotic drugs are put in the Concurrent List. That also saves the power of the Provinces to make such local legislation as they may like with regard to these drugs.

**Mr. President:** I put the amendment moved by Dr. Ambedkar. The question is:

*[The amendment was adopted. Entry 86, as amended, was added to the Union List.]*

#### ENTRY 86-A

**Shri H. V. Kamath :** I do not know if the medical and scientific terminology used in my amendment has been misunderstood. This terminology will be found in any standard book on Pharmacology.

**The Honorable Dr. B. R. Ambedkar:** We have got the power. It is covered by entry 20 which we are going to put in the Concurrent List.

(The amendment of Shri H. V. Kamath was negated).

#### ENTRY 88A

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**The Honorable Dr. B. R. Ambedkar:** I hope my friends is not going to read that 4-pages printed judgement of the Supreme Court of the United States. It has been circulated to everybody.

**Shri Deshbandhu Gupta :** It is wrong for my friend to presume that the whole judgement will be read. Of course, if it is necessary to read some extracts I will do so. I am only referring to the parts which are relevant to point raised by me. I wish to point out that expection was taken by those publishers

on the ground that the tax violated the Federal Constitution in two particulars (1) that it abridges the freedom of the press in contravention of the due process clause contained in Section I of the Fourteenth Amendment; (2) that it denies appellees the equal protection of the laws in contravention of the same amendment.

**The Honorable Dr. B. R. Ambedkar:** I am also rising on a point of order.

**Mr. Naziruddin Ahmad :** There could not be two points of order at the same time.

**The Honorable Dr. B. R. Ambedkar:** My point of order, is an elementary one whether my friend who is a signatory to this amendment—his name is mentioned here after Shri Sitaram Jajoo—having already given notice of this amendment can he now say that this is not in order? '-

**Shri Deshbandhu Gupta :** My friend has amended his own amend-ments hundred times.

**The Honorable Dr. B. R. Ambedkar:** If he was to propose an amendment to his amendment, that would be in order.

**Shri Deshbandhu Gupta :** I have every right to change my opinion just as my friend has done very often.

**Mr. President:** Even if he has signed the notice, I do not know whether he signed for 88A.

**The Honorable Dr. B. R. Ambedkar:** His name is Shri Deshbandhu Gupta.

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**Mr. President:** I should like to hear the Members on the main question. But before I do that, I would like to know whether the Drafting Committee would reconsider this item...

**The Honorable Dr. B. R. Ambedkar:** We should like to hear the various points of view as expressed in this House, and then if the House or you. Sir, find that it is not possible to come to any definite conclusion right now, then the matter may be remitted to the Drafting Committee so that the Committee, in view of the various expressions of opinion, might find out some formula acceptable to the House. But I do not think, as it is, it is any use trying to recast it We have got here very definite amendments. One is by my friend here and there is another by my Friend Mr. Jhunjhunwala—quite definite amendments.

**Mr. President:** There are really two point to be considered. One is whether the amendment which is proposed to be moved by Mr. Goenka is in order, in view of the previous article which we have already passed. And the second is...

**The Honorable Dr. B. R. Ambedkar:** Sir, If I may say so, this matter cannot

be decided on the basis of whether something will be *ultra virus* or whether something will not be *ultra virus*. This House is not competent to decide that. That is a judicial matter. All that the House must decide is whether we want to give protection to the newspapers from the various entries which are included, either in List I, List II or List III; and if we want to give them any exemption from these entries, then to what extent we should give sure about. We cannot give any assurance to any newspaperman here and now that we have made a case which is foolproof and knave-proof. We cannot give that assurance. So we had better decide the particular question whether we do want to give protection to newspapers from the operation of the various entries. That is the main question.

**Mr. President:** You should also consider the question whether it does not offend against Article 13.

**The Honorable Dr. B. R. Ambedkar:** On that we have some views and if you are prepared to hear, I will submit them.

**The Honorable Dr. B. R. Ambedkar:** Sir, I should like at the outset to slate what the point of order is, or how I have understood it, because I should like to be corrected at the outset, if I am wrong. The point of order seems to be this that in view of the fact that this Assembly has passed article 13 which is a part of the Fundamental Rights and which says that all citizens shall have the right to freedom of speech or expression,—in view of this, as it open to this House to pass an article which would curtail the fundamental right given by article 13 ? I take it that is the point that we have now to consider.

In support of the proposition that this House is now debarred from considering any proposal which would have the effect of limiting freedom of speech, there has been cited a judgement of the Supreme Court of the United States in which—1 have not read the whole thing, but only parts— it has been said that any tax levied on the press is *ultra vires*, in view of the fact—1 am using the language of the United States—that it abridges the freedom of the press.

**Shri Deshbandhu Gupta:** Barring income-tax. It is stated in the judgement itself

**The Honorable Dr. B. R. Ambedkar:** Now, Sir, it is not clear from the statement of fact *of* that particular case what the nature of the particular tax was which was called in question, nor is it clear as to the severity of that particular tax which was called in question. In my judgement, apart from the levy of the tax, the severity of the tax also would be an element in considering whether the tax was *ultra virus* or not. As I said, there, is no reference to this important fact in this judgement. I am therefore not prepared to go by that judgement

I am proceeding along other lines of arguments which I think are substantial and are not open to any criticism. The first point I want to submit is this: that, notwithstanding the fact that the constitutional guarantees which were given in the Constitution of the United States, the United States Supreme Court itself has held that these fundamental rights guaranteed by the Constitution are not absolute and that the Congress of the United States has, notwithstanding the language used in the Constitution, the right to impose reasonable restrictions on those fundamental rights. In fact I may remind the House that, in the opening speech which I made in support of the motion that this House do proceed to take into consideration the Draft Constitution, I devoted a considerable part to the consideration of this matter, because I had noticed some criticisms in papers and by others, to whom I was bound to pay a certain amount of respect and attention, that our fundamental rights were of no value at all, as they were subjected to various limitations which were enumerated in propositions that follow article 13, namely clauses (2), (3), (4) and (5).

In order to meet those criticisms, I took some trouble to examine the decisions of the Supreme Court on this matter. I did so because at one time I felt that in view of the fact that the constitutional guarantees which were called fundamental rights were enunciated in the Constitution of the United States in absolute terms without any qualifications, it may not have been open to the Supreme Court of the United States to limit those provision. But to my great surprise I found that the United States Supreme Court had taken the very same attitude that we have taken in the framing of the Constitution, namely that fundamental rights, however fundamental they may be, could not be absolute rights. They must be subject to certain limitations.

Now, if the House will permit me I shall quote only one passage from my speech. This is what I said.

" In *Gitlow vs. New York*, in which the issue was the constitutionality of a New York, ' criminal anarchy ' law which purported to punish utterances calculated to bring about violent change, the Supreme Court said :

" It is a fundamental principle, long established that the freedom of speech and of the press, which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility whatever one may choose, or an unrestricted and unbridled licence that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom '."

And I quoted many other cases. My whole point is this: that even in the United States itself, it is an acknowledged proposition that there must be some limitations upon the fundamental rights. On that there can be no question at all, in my judgement. Therefore, in so far as our entry—1 am not

going into the amendments for the moment— deals with tax on advertisements, my submission is that that entry could not be questioned as an entry which is *ultra vires* of this House, because it is going to put some kind of limitation upon the freedom of the press if it is acted upon by the provincial Governments. I entirely refuse to accept that interpretation that any tax levied under the head " Advertisements " would be *ultra vires* because it would infringe article 13.

The proposition which I submit could be enunciated and which is plausible and which may be accepted is this: that any imposition upon a newspaper of a tax of a severe nature which will result in wiping it out altogether, such an exercise of the taxation power, would be *ultra vires*, because it would completely wipe out the freedom of speech which has been guaranteed by article 13. In so far as the taxation imposed upon advertisements is not of a reasonable nature and is discriminatory, that is to say, it is merely confined to newspapers and all other forms of advertisements are exempted, then I can understand that that would violate article 15 under which we propose to give equal protection to all. Therefore my submission is that any argument which goes to the length of saying that anything which affects newspapers and the freedom of speech or writing in a newspaper would be *ultra vires*, I take the liberty to say, is not an argument which I am prepared to accept and which, I hope, this House will not accept.

Now I come to the other question. It is quite true that, in view of certain circumstances which have come to the surface in certain provinces, it may be necessary to transfer this particular entry regarding newspapers from List I to List II or place it in List III. That is a matter not of constitutional law. That is a matter of policy and a matter of confidence; whether you are prepared to put more confidence in the Center or whether you are prepared to put more confidence in the provinces or whether you are prepared to put confidence in the provinces but would like to reserve to the Center a certain amount of liberty and power to correct any wrong that a province might do is a matter which of course is open for discussion. That is what we have been discussing; whether any particular entry should remain in List I or part in List I and part in List II or in List III.

On that the House has got perfect liberty to decide, because it is a matter on which the House has got complete freedom, and nobody is going to suggest that the House has its hands tied down by reason of article 13 and that it cannot do anything to impose any kind of limitation upon the newspapers. I repudiate that argument absolutely.

Now, Sir, I should like to deal with the various amendments. If you will permit me, I would like to deal with them because those who may follow me

may criticise what I am saying. It seems to me that the friends who are interested in newspapers are really trying to get complete immunity, so to say, from any kind of taxation that may be levied by the provinces. The first amendment moved by my Friend, Mr. Goenka, and several others—there are some fifty • or sixty names—is that it should be transferred to the Union List, List 1. In doing that, they have done something which we ourselves had not done. Our newspaper entry is not connected with taxation. Those members who have closely watched the arrangement in List I and List II will realise that we have separated the entries into two parts, entries which are purely legislative and entries which are taxational. You will remember that newspapers, although they are mentioned in List III, they are mentioned only among the legislative entries. Now, the amendment moved by my Friend Mr. Goenka, has done the worst from his point of view, viz., he has put the newspapers in that part of List I which deals with taxation. It means that it would be open now for the Center to levy a tax on newspapers. (*Hear, hear.*) I do not like newspapers and I am not interested in either injuring them or in protecting them. I am prepared to place the whole matter in the hands of the House to do what it likes.

The second amendment moved by my friend, Mr. Jhunjhunwala, does what? He thinks that, although newspapers may be transferred to List I, newspapers as goods open to sale, will still remain in List .11 because the entry in that list is a very broad entry and would cover newspapers as goods and therefore he feels that there is no purpose served by merely accepting the amendment of Mr. Goenka because they would be liable to be taxed by the provinces under the entry relating to taxes on sale of goods. Therefore he has moved his amendment to get the newspapers out of the Sales Tax Act.

Now, the question to be considered is whether the provinces would agree that so important a part of what I may call the base of their taxation as constituted by the newspapers should be altogether eliminated from the field of provincial taxation. It is a matter which has to be considered. Sir, being a financial matter, I do not think that the Drafting Committee would be prepared to take the responsibility on its own shoulders without consultation either with the Finance Ministry or with the Finance Ministers of the Provinces. We have been taking a great deal of responsibility so far as purely legislative entries are concerned. When the question of finance is concerned, we have a sort of standing convention that we should always consult the Central Finance Ministry as well as the Finance Ministers of the various provinces.

Therefore these are the difficulties that are involved in these amendments. Now I do not know if you transfer the entry on newspapers to the Union List, the Center may levy a tax on newspapers as manufacturers, because the



Center is entitled to put an excise duty on any goods manufactured in any part of India. It seems to me therefore that it would be difficult for the newspapers to escape taxation. All these things have to be taken into consideration. That is to say, these are extraneous matters to which I have given expression at this stage because I think that every Member who wants to take part in the debate, ought to know what the difficulties are. All that I am interested in at the moment is this that there is no bar to the House considering any kind of limitation, notwithstanding that we have passed article 13. The proposition which is being sought to be placed before the House for its acceptance is in my judgement a very dangerous proposition. It would eliminate even taxation absolutely. Even article 24 could not be there. Many either complications would arise. If you say that because fundamental rights are guaranteed therefore the taxation power should also not be exercised because that would result in the limitation or the destruction of the fundamental rights, it is too large a proposition and I do not think that anybody will ever accept this.

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**Pandit Thakur Das Bhargava:** Supposing there is not complete destruction of this right, but there is material curtailment or abridgement, will it not be covered by this?

**The Honorable Dr. B. R. Ambedkar:** What is reasonable the Court will decide.

**Shri Alladi Krishnaswami Ayyar:** I have nothing to add to my speech.

(At this stage Shri Deshbandhu Gupta rose to speak.)

**Mr. President:** I do not think there is any right of reply in a matter like this.

**Shri Deshbandhu Gupta :** On a point of order, I want to clear one or two points which seems to have created confusion.

**Mr. President:** No. It is a question whether you have the right to reply or not.

**An Honorable Member:** The President has already said that the Honorable Member has no right of reply.

**Shri Deshbandhu Gupta :** Sir, as some points have been raised and I would request you to explain these points particularly as no speaker from this side has spoken after Shri Alladi Krishnaswami Ayyar raised the points.

**Mr. President:** I think a larger number of people spoke from your side and from your point of view.

I have understood the point of order that has been raised. I shall have to consider it and I will give my ruling later, but in the meantime I would ask Dr.

Ambedkar to consider the other point which he himself has raised, supposing I rule that it is in order, then in that case I would expect him to be ready with the answer on the merits also as to whether you will have it in the form in which it is sought to be moved by Mr. Goenka or sought to be amended by Mr. Jhunjhunwala.

**The Honorable Dr. B. R. Ambedkar:** In that case, they should withdraw the amendment.

**Shri Deshbandhu Gupta:** The amendment has not been moved. I took exception to the moving of the amendment.

**Mr. President:** I shall give my ruling later. We shall take up the other items now. Certain new items have been proposed. Some are in the printed list. Before we go to that, let us go through the other entries.

### ENTRY 91

**Mr. Naziruddi Ahmad:** I shall not move the amendment; but I shall speak on the entry itself.

**The Honorable Dr. B. R. Ambedkar:** Why not present the baby with the song? Why the song only? You may move the amendment and make a speech.

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**The Honorable Dr. B. R. Ambedkar:** Mr. President, I propose to deal with the objection raised by my friend Sardar Hukam Singh. I do not think he has realised what is the purpose of entry 91 and I should therefore like to state very clearly what the purpose of 91 in List I is. It is really to define a limit or scope of List I and I think we could have dealt with this matter, viz., of the definition of and scope of Lists II and III by adding an entry such as 67 which would read:

" Anything not included in List II or III shall be deemed to fall in List I. "

That is really the purpose of it. It could have been served in two different ways, either having an entry such as the one 91 included in List I or to have an entry such as the one which I have suggested— ' that anything not included in List II or III shall fall in List I '. That is the purpose of it. But such an entry is necessary and there can be no question about it. Now I come to the other objection which has been repeated if not openly at least whispered as to why we are having these 91 entries in List I when as a matter of fact we have an article such as 223 which is called residuary article which is " Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List ". Theoretically I quite accept

the proposition that when anything which is not included in List II or List III is by a specific article of the Constitution handed over to the Center, it is unnecessary to enumerate these categories which we have specified in List 1. The reason why this is done is this. Many States people, and particularly the Indian States at the beginning of the labours of the Constituent Assembly, were very particular to know what are the legislative powers of the Center. They wanted to know categorically and particularly; they were not going to be satisfied by saying that the Center will have only residuary powers. Just to allay the fears of the Provinces and the fears of the Indian States, we had to particularize what is included in the symbolic phrase "residuary powers". That is the reason why we had to undergo this labour, notwithstanding the fact that we had article 223.

I may also say that there is nothing very ridiculous about this, so far as our Constitution is concerned, for the simple reason that it has been the practice of all federal constitutions to enumerate the powers of the Center, even those federations which have got residuary powers given to the Center. Take for instance the Canadian constitution. Like the Indian constitution, the Canadian constitution also gives what are called residuary powers to the Canadian Parliament. Certain specified and enumerated powers are given to the Provinces. Notwithstanding this fact, the Canadian constitution. I think in article 99, proceeds to enumerate certain categories and certain entries on which the Parliament of Canada can legislate. That again was done in order to allay the fears of the French Provinces which were going to be part and parcel of the Canadian Federation. Similarly also in the Government of India Act; the same scheme has been laid down there and section 104 of the Government of India, Act, 1935 is similar to article 223 here. It also lays down the proposition that the Central Government will have residuary powers. Notwithstanding that, it had its List 1. Therefore, there is no reason, no ground to be over critical about this matter. In doing this we have only followed as I said, the requirements of the various Provinces to know specifically what these residuary powers are, and also we have followed well-known conventions which have been followed in any other federal constitutions. I hope the House will not accept either the amendment of my Friend Sardar Hukam Singh nor take very seriously the utterings of my Friend Mr. Naziruddin Ahmad. *[All amendments were negatived. Entry 91 was added to the Union List.]*

**Mr. President:** I think it is not necessary to have any further discussion on this point. However, if Dr. Ambedkar has anything to say about it, I would hear him; but otherwise I do not think any discussion is necessary on a point like this.

**The Honorable Dr. B. R. Ambedkar:** No discussion is necessary. I do not wish to say anything.

**Shri Brajeshwar Prasad :** I would like to withdraw my amendment. *[The amendment of Shri Brajeshwar Prasad was not allowed to be withdrawn. It was put to vote and negatived.]*

## ENTRY 70-A LIST I

**Mr. President:** Has Dr. Ambedkar anything to say on this?

**The Honorable Dr. B. R. Ambedkar:** No, Sir, I have nothing to say in reply. Young men and young women are capable of taking care of themselves. Why bother about them?

*[The amendment was negatived. Similar amendment by Prof. S. L. Saksena was also negatived.]*

## ENTRY 59

**Shri Raj Bahadur:** .. We have got to realise the seriousness of the problem. As I said, I would not move any of the other amendments, because I feel somewhat discouraged to see that the Honorable Chairman of the Drafting Committee is not even taking the trouble to reply to most of the amendments moved by other members suggesting new entries.

**Shri T. T. Krishnamachari:** He is engaged in studying the amendment moved by you.

**Shri Raj Bahadur:** I would be very fortunate if I get a reply to my motion.

**The Honorable Dr. B. R. Ambedkar:** Sir, as my friend expects a reply from me, I would just say one or two words.

The question of control and eradication of beggary is a matter which has been already provided for in List III in entry 24 ' Vagrancy ' which includes beggary. The only point is whether it should remain there or should be brought in List 1. I think it will be better to leave it in List III so that both the Provinces and the Center could operate upon that entry.

*[The amendment of Shri Raj Bahadur was withdrawn.]*

[Contd.](#)

## LIST II ENTRY 1

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**Mr. President:** Do you want to say anything. Dr. Ambedkar ?

**The Honorable Dr. B. R. Ambedkar:** I do not want to say anything.

**Shri Brajeshwar Prasad :** I withdraw my amendment.

**Mr. President:** The House evidently is not in a mood to give permission for this amendment to be withdrawn. I will put it to the vote. The question is:

" That entry I of List II be transferred to List I as new entry 2A ".

*(The amendment was negated.)*

**Mr. President:** There is an amendment by Dr. Ambedkar, amendment No. 63.

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That in entry I of List II, the following words be deleted :

' preventive detention for reasons connected with the maintenance of public order; persons subjected to such detention.' "

It is proposed that this entry should be put in List III. That is the reason why I propose that these words be deleted.

**Sardar Hukam Singh :** Sir, I move :

" That in entry I of List H, after the words " naval, military or air forces " the words " or any other armed forces of the Union " be inserted."

My purpose in moving this amendment is that I feel that it is a lacuna, an omission on the part of the Drafting Committee. If I am told that it has been deliberately omitted...

**The Honorable Dr. B. R. Ambedkar:** I am prepared to accept this amendment.

*[The amendment was adopted. Entry I, as amended was added to the State List,]*

## ENTRY 2

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 2 of List H, the following entry be substituted :—

' 2, The administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts; fees taken in all courts except the Supreme Court. ' "

The only change made is that the High Courts have been brought in because as I explained yesterday so far as the constitution and organization of High Courts are concerned, they are completely under the control of the Center.

*[Entry 2 as amended, was added to the State list.]*

## ENTRY 4

**Shri Brajeshwar Prasad:** I will move my amendment without offering any

comment, *i.e.*, I will not deliver any speech. Sir, I move:

" That for amendment No. 3589 of the List of Amendments, the following be substituted:—

' That entry 4 in List II be omitted from that List and be included in List I.' "

Sir, I may with your permission say that instead of List I the entry should be included in List III. It will meet the objection of Mr. T. T. Krishnamachari. Sir, I regard " Police " as a vital subject and I think it should be included in the concurrent powers and thus brought under the Center.

**Shrimati Purnima Banerji** (United Provinces : General) : I want to ask whether you are satisfied that ' Police ' includes the Home Guards and the Pranthiya Raksha Dal.

**The Honorable Dr. B. R. Ambedkar**: That depends upon any legislation made by the province. If under the Police Act they enrol a certain person, he is a police for that purpose or if they enrol under some other Act and they are given the powers of the Police, that will also be police.

**Shri Mahavir Tyagi** : May I ask whether the Home Guards and the Pranthiya Raksha Dal go under the residuary powers of the Government of India or be controlled by the local Government? Where will they go?

**The Honorable Dr. B. R. Ambedkar**: If it is not Police, then it will go under the Central government. " Police " is used in contradiction to " Army ". Anything which is not " army " is Police.

**Shri Mahavir Tyagi** : Let that go down as your ruling within questions.

**Pandit Hirday Nath Kunzru**: If Dr. Ambedkar's interpretation is correct, then a province can raise an army without calling it by that name.

**The Honorable Dr. B. R. Ambedkar**: No, I do not think they can do it.

**Dr. P. S. Deshmukh** : That is what is happening already.

**The Honorable Dr. B. R. Ambedkar**: An army is enrolled under the Indian Army Act 1911 and there are stringent conditions laid down as to enrolment in that Act. A province has no right to legislate on that entry at all.

**Pandit Hirday Nath Kunzru**: A province will not legislate with regard to the creation of an army at all. But, it can raise a force and give it military training without calling it an army.

**Shri T. T. Krishnamachari**: I might mention. Sir, that there are special armed police in the provinces. They are recruited under the powers given under the Police Act. They are considered to be a police force even though they are on a *quasi* military basis.

**Shri Mahavir Tyagi** : Why don't you add the word home Guard and make it clear?

**The Honorable Dr. B. R. Ambedkar**: There are armed police; there are unarmed police.

**Mr. President:** The question put by Pandit Kunzru is whether a province will be able to raise an army, without calling it an army, but calling it police.

**The Honorable Dr. B. R. Ambedkar:** I am sure if a province is going to play a fraud on the Constitution, the Center will be strong enough to see that that fraud is not perpetrated.

*[Amendment of Mr. Brijeshwar Prasad was withdrawn. Entry 4 was added to the State list.]*

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### ENTRY 7A

**The Honorable Dr. B. R. Ambedkar:** Sir, I move:

" That after entry 7 of List II, the following entry be inserted :—

' 7-A. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.' "

This is merely a corresponding entry to what we have already done so far as List I is concerned.

(List 7-A was added to the State List)

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### ENTRY 9

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 9 of List II, the following entry be substituted :—

' 9. Acquisition or requisitioning of property except for the purposes of the Union, subject to the provisions of entry 35 of List III.' "

The only change is that the underlined words are now put in the Concurrent List and it is therefore necessary to omit them from this entry. This is also what we have done with regard to a similar entry in List 1.

*[Dr. Ambedkar's motion was adopted. Entry 9, as amended, was added to the State List.]*

### ENTRY 10A

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 10 of List II, the following entry be inserted :—

' 10-A. Ancient and Historical Monuments other than those specified in entry 60 of List I.' "

We have distributed this entry, kept apart in List I and the other part is now placed in List II.

(Entry 10-A was added to the State List)

## ENTRY 12

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 12 of List II, the following entries be substituted :—

' 12. The salaries and allowances of Ministers for the State, of the Speaker and Deputy Speaker of the Legislative Assembly, and if there is a Legislative Council, Council of the Chairman and Deputy Chairman thereof; the salaries and allowances of the members of the Legislature of the State.'

' 12-A. The privileges, immunities and powers of the Legislative Assembly and of the members and the Committees thereof and if there is a Legislative Council, of that Council and of the members and the Committees thereof.' "

This is merely a counterpart of what we have done so far as List I is concerned regarding the Center.

(Entries 12 and 12-A were added to the State List)

## ENTRY 14

**Mr. President:** Now the question is whether we should have an additional entry as " Regulation and control of Houses and Rents ". Mr. Tyagi, you move it as a separate entry.

**The Honorable Dr. B. R. Ambedkar:** Yes, he may move it as a separate entry.

**Shri Mahavir Tyagi :** I am grateful to you and also to Dr. Ambedkar. He has for the first time been generous to me.

Sir, I do submit that it is really embarrassing to move an amendment to the list which has been submitted by the Drafting Committee, for the Drafting Committee is always very resourceful and it is very difficult to struggle with them successfully.

**Mr. President:** But you are moving an additional entry.

**Shri Mahavir Tyagi:** Yes, Sir, but the acceptance of the Drafting Committee has to be sought. After all it is primarily they who accept suggestions, and if they accept them, then the House readily agrees to them.

The House has already agreed to one entry which says that all the residuary powers will go to the Center, all that is not mentioned in List II or List III. I submit that the control of Houses in urban areas and the control of rents of those houses are an important matter today. It was not in the original list of the Government of India Act 1935, because at that time the control over the houses and their rents was not needed and it was not prevalent in India. But...



**The Honorable Dr. B. R. Ambedkar:** I understand the Honorable Member's argument and I could reply to him in a few minutes.

**Shri Mahavir Tyagi:** Yes, and I therefore only submit that this subject of control of the houses and the control of the rents should be there. I would even go further and say that the control of good grains also should come in. If the House agrees, it may be brought in as an independent item somewhere.

**The Honorable Dr. B. R. Ambedkar:** Sir, there are, I think three distinct questions, although they have not been stated by Mr. Tyagi in that form. The first question is whether the Provincial legislature should or should not have any power to regulate and control houses and house-rent. I think on that issue, there can be no difference of opinion, that the Provincial Governments must have such power. The question then is whether the Draft Constitution and the entries in the list make any provision for the provincial legislatures to exercise powers for the purpose of regulating and controlling the houses and the rents. Now, my submission is that the specific entry as proposed by Mr. Tyagi is quite unnecessary, because there are two other entries, namely entry 24 of List II which deals with "land, rights in or over land, land tenures including the relation of land-lord and tenant, and the collection of rents, etc. etc." That is one entry. Then there is another entry No. 8 in List III about transfer of property other than agricultural land; registration of deeds and documents. These two entries have been found to be quite sufficient to enable the Provincial Governments to make laws relating to the regulation and control of Houses and rents,—My Friend Mr. Tyagi knows also, that notwithstanding the fact that such an entry does not exist even today, under List II of the Government of India Act, none-the-less, the Provinces have enacted laws in this matter. Therefore entry 24 relating to land and the other entry. No. 8 about transfer of property are quite sufficient to give the power which Mr. Tyagi wants that they should have.

Another difficulty in the way of accepting the amendment of Mr. Tyagi is this. Suppose we were now to include this entry, it would cause a certain amount of doubt on the laws that have already been made by the provinces for the purpose of regulation of houses and the control of rents. It would appear that the legislature itself felt that the entry as it already existed, was not sufficient for the purpose of giving the legislature power to make laws for this purpose. And therefore it was necessary specifically to give this power. I think we would unnecessarily casting doubts upon the validity of laws already made. Therefore, this is an additional ground against accepting the amendment. In the first place, as I have said it is unnecessary because the provinces have got sufficient power to make such laws and the other is this question of validity of laws made.

Now I come to the third part. My Friend Mr. Tyagi has been struggling to some extent when I was dealing with the question of cantonments to remove the power of allowing cantonments to regulate rents and the premises within their areas. If my friend's intention is that by getting this entry accepted, it would be possible for the provinces to nullify the power which has already been given by the entry in List I, as it has been already passed, then I think, he is completely under a mistake. Notwithstanding the fact that this entry may become part of the Constitution, the entry which we have already passed would be valid; notwithstanding any power vested in the Provinces, the Cantonments will have the power to make regulations with regard to the premises and the rent of the premises situated in that area. Therefore, I submit to my Friend Mr. Tyagi that his purpose is already served and it is unnecessary to have this entry, especially because it would be causing a certain amount of doubt on the validity of the laws already made under these entries as they stand.

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**Shri Mahavir Tyagi** : ...Suppose the owner of a house takes objection on the ground that the provincial government has no right to control rents, then what happens?

**The Honorable Dr. B. R. Ambedkar**: No, he cannot because under the General Clauses Act, land includes the buildings.

**Shri Mahavir Tyagi** : It is a new interpretation of the law, that land includes the building.

**The Honorable Dr. B. R. Ambedkar**: It is new because law is not the profession of Mr. Tyagi.

#### ENTRY 15

**The Honorable Dr. B. R. Ambedkar**: Sir, I move:

" That in entry 15 of List II, the words ' registration of births and deaths ' be deleted." This is transferred to the concurrent List.

[Contd.](#)

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**The Honorable Dr. B. R. Ambedkar**: I do not accept any of the amendments moved.

*[Amendments by Shri Kamath and Brijeshwar Prasad were rejected. The motion of Dr. Ambedkar was adopted. Entry 15, as amended, was added to the State List.]*

#### ENTRY 18

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

"That for entry 18 of List II, the following entry be substituted:—

' 18. Education including universities, subject to the provisions of entries 40, 40-A, 57 and 57-A of List I and entry 17-A of List II.' "

*[All amendments to Entry 24 were rejected by Dr. Ambedkar and were negatived by the House. Entry 24 was added to the State List.]*

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**Sardar Hukam Singh** (East Punjab : Sikh) : Sir, Now, that Pandit Bhargava has moved this amendment that this entry should be transferred to the Concurrent List there is no need for me to move my amendment and I wholeheartedly support Pandit Bhargava's amendment.

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**The Honorable Dr. B. R. Ambedkar:** Sir, I am prepared to accept this amendment (of Pandit Bhargava as below) :

" That with reference to amendment No. 3626 of the List of Amendments, entry 43 in List II be transferred to List III as entry 9-A."

(The motion was adopted.)

Entry 43 of List II was transferred to the Concurrent List.

## ENTRY 45

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**The Honorable Dr. B. R. Ambedkar:** Sir, I am very much afraid that both my friends, Mr. Shibban Lal and Mr. Sahu, have entirely misunderstood the purport of this entry 45 and they are further under a great misapprehension that if this entry was omitted, there would be no betting or gambling in the country at all. I should like to submit to them that if this entry was omitted, there would be absolutely no control of betting and gambling at all, because if entry 45 was there it may either be used for the purpose of permitting betting and gambling or it may be used for the purpose of prohibiting them. If this entry is not there, the provincial governments would be absolutely helpless in the matter.

I hope that they will realise what they are doing. If this entry was omitted, the other consequence would be that this subject will be automatically transferred to List I under entry 91. The result will be the same, viz., the Central Government may either permit gambling or prohibit gambling. The

question therefore that arises is this whether this entry should remain here or should be omitted here and go specifically as a specified item in list I or be deemed to be included in entry 91. If my friends are keen that there should be no betting and gambling, then the proper thing would be to introduce an article in the Constitution itself making betting and gambling a crime, not to be tolerated by the State. As it is, it is a preventive thing and the State will have full power to prohibit gambling. I hope that with this explanation they will withdraw their objection to this entry.

*[The motion was adopted. Entry 45 was added to the State List.]*

#### **ENTRY 38—(contd.)**

**The Honorable Dr. B. R. Ambedkar:** May I request you to go back to entry 38 and to amendment No. 311 standing in the name of Pandti Lakshmi Kanta Maitra? I heard, Sir, that you were pleased to direct Mr. T. T. Krishnamachari to have this entry held back, but I am prepared to accept the amendment suggested by my Honorable Friend, Pandit Maitra.

**Mr. President:** Very well. The question is :

" That entry 38 of List II be transferred to List III."

(The amendment was adopted.)

Entry 38 was transferred to the Concurrent List.

#### **ENTRY 46**

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**The Honorable Dr. B. R. Ambedkar:** I cannot accept this amendment. As our system of revenue assessment is at present regulated, it would upset the whole of the provincial administration. The matter may, at a subsequent stage be investigated either by Parliament or by the different provinces, and if they come to some kind of an arrangement as to the levy of land revenue and adopt the principles which are adopted in the levy of income-tax, the entry may be altered later on but today it is quite impossible. The matter was considered at great length in the Conference with the Provincial Premiers and they were wholly opposed to any change of the place which has been given to this entry.

*[Two amendments were negatived. The motion was adopted. Entry 46 was added to the State List.]*

#### **ENTRY 48**

**Shri Brajeshwar Prasad :** Sir, I beg to move:

"That in amendment No. 3631 of the List of Amendments, for the word ' deleted ' the words and figure ' transferred to List I ' be substituted."

**Prof. Shibban Lal Saksena** : I also move my amendment No. 316 :

" That entry 48 of List II be transferred to List III."

**The Honorable Dr. B. R. Ambedkar**: I do not accept that.

*[Both amendments were rejected. Entry 48 was added to the State Listed.]*

#### ENTRY 49

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**The Honorable Dr. B. R. Ambedkar**: For the reasons which I have given while dealing with entry 46, I do not accept the amendment.

**Mr. President**: The question is :

" That in amendment No. 3632 of the List of Amendments, for the word ' deleted ' the words and figure ' transferred to List I ' be substituted."

The amendment was negatived.

**Mr. President**: The question is :

" That entry 49 of List II be transferred to List III."

*[The amendment was negatived. Entry 49 was added to the State List.]*

#### ENTRY 50

**The Honorable Dr. B. R. Ambedkar**: Sir, I move:

" That in entry 50 of List II, the words ' or roads ' be added at the end."

**The Honorable Dr. B. R. Ambedkar**: I do not accept the amendment.

" That in entry 50 of List II, the words ' or roads ' be added at the end."

*[The amendment of Dr. Ambedkar was adopted. The motion was adopted. Entry 50, as amended, was added to the State List.]*

#### ENTRY 52

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**The Honorable Dr. B. R. Ambedkar**: Sir, I move :

" That in entry 52 of List H, the words ' non-narcotic drugs ' be omitted."

This is merely consequential.

*[The amendment was adopted. The motion was adopted. Entry 52, as amended was added to the State List.]*

#### ENTRY 56

**Prof. Shibban Lal Saksena**: Sir, I move :

" That entry 56 of List II be transferred to List III and the following explanation be added at the end :—

' *Explanation.*—Nothing in this entry will be construed as limiting in any way the authority of the Union to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.' "

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**The Honorable Dr. B. R. Ambedkar:** Sir, I think this amendment is rather based upon a misconception. This entry is a purely provincial entry. It cannot limit the power of the Center to levy Income-tax. On the other hand, this entry 56 may be so worked as to become an encroachment upon Income-tax that is leviable only by the Center. You may recall, Sir, that I introduced an amendment in article 256 to say that any taxes levied by the local authorities shall not be deemed to be Income-tax. This amendment is not necessary.

**Prof. Shibban Lal Saksena :** I do not press the amendment. Sir.

(The amendment was, by leave of the Assembly, withdrawn.)

*[Entry 56 was added to the State List.]*

#### ENTRY 58

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 58 of List II, the following entries be substituted :—

' 58. Taxes on the sale or purchase of goods. 58-A. Taxes on advertisements.' "

We are trying to cut out the word ' turnover '.

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**Shri V. L. Muniswamy Pillay** (Madras : General) : I move :

" That with reference to amendment No. 3638 of the List of Amendments, in entry 58 of List II, after the words ' purchase of goods ' the words ' other than Newspapers ' and after the words ' taxes on advertisements ' the words ' other than those appearing in Newspapers ' be inserted respectively."

**Shri Deshbandhu Gupta** (Delhi): I suggest this may be also held over.

**Mr. President:** This was a question which was raised yesterday. I held it over for my ruling.

**The Honorable Dr. B. R. Ambedkar:** I suggest that amendment No. 122 might be treated as an independent thing which may be brought in by an additional entry. Then subsequently the Drafting Committee may work the two things together if accepted. Subject to that, this entry may go. Those interested in 122 may be permitted to bring in this in the form of an additional entry.

**Mr. President:** Your point is not touched so far as newspaper and advertisement is concerned.

**Shri Deshbandhu Gupta:** If it is felt that the Drafting Committee should

provide this somewhere else then it would become difficult to revise the past, once a decision is taken by the House on this entry.

**The Honorable Dr. B. R. Ambedkar:** Before we conclude discussion of the three Lists this matter may be brought up.

**Mr. President:** I am prepared to allow this to be taken up separately when we take up 88-A which we held over yesterday. So the position is that the question relating to advertisement is held over, but apart from that, this entry is to be put to vote, as amended by Dr. Ambedkar.

**Prof. Sibban Lal Saksena :** When a ruling is pending how can it be passed?

**Shri Deshbandhu Gupta :** It will be simpler if it is held over.

**Mr. President:** Well, let it be held over. We will take it up along with 88-A which we held over yesterday.

Entry 58 of List II was held over.

#### ENTRY 59

**Mr. President:** Entry 59.

**The Honorable Dr. B. R. Ambedkar:** I move :

" That in entry 59 of List II, the following be added at the end :—

' Subject to the provinces of entry 21 of List III.' "

In List III we are going to say that the Center should have the power to lay down the principle of taxation.

*[The motion of Dr. Ambedkar was adopted. Entry 59, as amended, was added to the State List.]*

#### ENTRY 64

**The Honorable Dr. B. R. Ambedkar:** Sir, I move:

" That entry 64 of List II be deleted."

That is taken in the Concurrent List.

*[The motion was adopted. Entry 64 of List II was deleted from the State List.]*

#### ENTRY 67

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**The Honorable Dr. B. R. Ambedkar:** Sir, this matter will be covered by the Part of the Constitution which we propose to add to the existing Draft, the part where all the payments that are to be made to the rulers will be dealt with, and for the present. I do not see any necessity for any such amendment. I think my Friend, after seeing that part which we propose to introduce by way of an amendment, may see whether his object is carried out by our proposal.

If not, he may be quite in order in moving an amendment to that part when that part comes before the House.

**Kaka Bhagwant Roy** : Sir, I wish to withdraw my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

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### ENTRY 2-A

**Mr. President:** Then we come to entry 2-A. Dr. Ambedkar.

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 2 of List III, the following entry be inserted :—

' 2A. Preventive detention for reasons connected with stability of the Government established by law and the maintenance of public order and services or supplies essential to the life of the community; persons subjected to such detention.' "

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### SEVENTH SCHEDULE—(conld.)

#### LIST III

#### (CONCURRENT LIST)

### ENTRY 2-A

**Mr. Voice-President:** (Shri V. T. Krishnamachari) : We are now doing entry 2-A of the Concurrent List.

**Mr. Naziruddin Ahmad** : (West Bengal : Muslim) : Mr. Vice-President, Sir I would seek your permission to make a verbal change in my amendment No. 290. No. 289 has been moved by Mr. Kamath. I wish to move the next entry and I seek your permission to make a slight verbal alteration. I know that the amendment will never be accepted—that it will not even be considered. So there is no harm in making the amendment look better. May I have your permission to substitute for the words " overthrow of the Government by force " in my amendment, the words " security of the State "? The wording " security of the State " seems to be more proper and the change is only verbal.

**Mr. Vice-President:** Yes.

**Mr. Naziruddin Ahmad** : Sir, I beg to move ...

**The Honorable Dr. B. R. Ambedkar:** (Bombay : General) : Sir, may I suggest to my Friend that if he is prepared to accept the wording as I suggest now, namely, " connected with the security of the State " instead of the words " connected with stability of the Government established by law " I shall be prepared to accept it, because I find that that is exactly the language we have used in amended entry 3 in List I—We have used the word " security of India



" there. If my Friend is satisfied with the wording I have now suggested I shall be prepared to accept it.

**Mr. Naziruddin Ahmad** : I am grateful to Dr. Ambedkar, but this is exactly the change which I was asking to the Vice-President to permit me to make.

**The Honorable Dr. B. R. Ambedkar**: Your words were different.

**Mr. Naziruddin Ahmad** : I was going to move an amended amendment and that is exactly on the lines, word for word, as the one that Dr. Ambedkar now suggests.

**The Honorable Dr. B. R. Ambedkar**: Then there is nothing to speak about it. If my Honorable Friend will move the amendment as I have suggested then I am prepared to accept it.

**Mr. Naziruddin Ahmad** : I must move my amendment.

**Mr. Vice-President**: As Dr. Ambedkar is accepting it, is it necessary for the Honorable Member to move the amendment and speak on it?

**Mr. Naziruddin Ahmad** : If my Honorable Friend fails to recognize that I was going to move an amendment which is correct and exactly corresponds to his ideas, I cannot help it. But let me move my amendment.

Sir, I beg to move:

" That in amendment No. 124 of List I (Sixth Week), in the proposed new entry 2-A of List III, for the words " stability of the Government " the words " security of the State " be substituted."

The expression " stability of the Government " is not proper...

**The Honorable Dr. B. R. Ambedkar**: I do not think any argument is needed as I am accepting the amendment.

**Mr. Naziruddin Ahmad** : I know. But there is the House. I will say only one or two words. The expression " stability of the Government " is rather vague in the context of the new entry proposed by Dr. B. R. Ambedkar, namely, " preventive detention for reasons connected with the stability of the Government ". " Government " and " State " are different things.

**The Honorable Dr. B. R. Ambedkar**: That is the reason why I have accepted it.

**Mr. Naziruddin Ahmad** : But, Sir, he has not made it clear as to why he has accepted it.

**The Honorable Dr. B. R. Ambedkar**: I have said that " security of the State" is the proper expression. So there is no necessity of an argument.

**Mr. Vice-President**: The amendment proposed by the Honorable Member having been accepted, there is no need for elaborate arguments.

**Mr. Naziruddin Ahmad** : But the House should know. Why should there be so much nervousness about the exposure of bad drafting? That is the point.

**The Honorable Dr. B. R. Ambedkar**: If my Honorable Friend is satisfied

with an admission on my part that I have made a mistake I am prepared to make it.

**Mr. Naziruddin Ahmad** : It should be appreciated not merely by the House but by the world at large. Drafted as it is, " stability of the Government " may mean insecurity of the Ministry for which they might imprison the opposition.

**The Honorable Dr. B. R. Ambedkar**: Very well, we have bungled. Is that enough?

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**The Honorable Dr. B. R. Ambedkar**: Sir, the amendment as amended has to be put and not as in the Notice Paper.

**Mr. Vice-President**: I will now put amendment No. 124 as revised by Dr. Ambedkar. The question is :

" That after entry 2 of List III, the following entry be inserted :—

' 2-A. Preventive-detention for reasons connected with the security of the State and the maintenance of public order and services or supplies essential to the life of the community; persons subjected to such detention.' "

(The motion was adopted.)

Entry 2-A, as amended, was added to the Concurrent List

### ENTRY 3

**The Honorable Dr. B. R. Ambedkar**: Sir, I move :

" That for entry 3 of List III, the following entry be substituted :—

' 3. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 2A of this List.' "

**Mr. Naziruddin Ahmad**: I am not moving amendment No. 291.

**Mr. Vice-President**: Amendment No. 292. The Member is not present and the amendment is not therefore moved.

I will put Dr. Ambedkar's amendment to vote.

*[The amendment was adopted. Entry 3, as amended, was added to the Concurrent List.]*

### ENTRY 4

**The Honorable Dr. B. R. Ambedkar**: I Move :

" That in entry 4 of List III, the words and figures ' for the time being specified in Part I or Part II of the First Schedule ' be deleted."

*[Entry 4 as amended, by Dr. Ambedkar's amendment was added to the Concurrent List.]*

## ENTRY 6

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**The Honorable Dr. B. R. Ambedkar:** Sir, there can be no doubt that the amendment of my Honorable Friend, Dr. Deshmukh, in so far as it seeks to interpolate certain word's dealing with the protection of children in entry 6 are out of place because entry 6 no doubt refers to infants and minors, but it has to be borne in mind that taking the entry as a whole, that entry deals with status. In so far as the status of infants and minors are concerned, these categories are included in entry 6, but " care and protection of destitute and abandoned children and youth " are not germane to their status.

**Dr. P. S. Deshmukh :** That was exactly why I had wanted to introduce an independent entry. There is an amendment already in my name which seeks to have an additional entry separately.

**The Honorable Dr. B. R. Ambedkar:** I was just going to deal with the amendment moved by him. These words could not be interpolated in this entry 6, without seriously damaging the structure of that entry No. 6. Therefore at this stage I certainly cannot accept the proposition of interpolating these words.

Now, Sir, I will deal with the general question of the protection of children. There can be no doubt about it that every Member in the House including myself and the members of the Drafting Committee could ever take any exception to the protection of children being provided for by the State, and there can be no difference of opinion; but the only question is whether in the list as framed by the Drafting Committee that matter is not already covered. In framing these entries, what we have done is to mention and categorize subjects of legislation and not the objects of purposes of legislation.

Protection of children is a purpose which a legislature is entitled to achieve if in certain circumstances it thinks that it must do so. The question is whether under any of these entries, it would not be possible for the State to achieve that purpose, namely, the protection of children.

It seems to me that any one of these entries which are included in List II could be employed by the State for the purpose of framing laws to protect children. For instance, under entry 2 of List II, administration of justice, it would be open for the State to establish juvenile courts for children.

**Dr. P. S. Deshmukh :** That is not what I meant. I never referred to juvenile Courts.

**The Honorable Dr. B. R. Ambedkar:** For instance, take prisons and reformatory and Borstal institutions, they may be empowered to establish special kinds of prisons where there would be, not the principle of

punishment, but the principle of reformation. Take the case of education.

**Shrimati G. Durgabai:** May I submit. Sir, the case of delinquent children stands absolutely on different footing and from destitute and abandoned children?

**The Honorable Dr. B. R. Ambedkar:** As I was saying entry 18, which deals with education in List II, could be used by the State for the purpose of establishing special kinds of schools for children including even abandoned children. Under entry 42, dealing with the incorporation of societies and so on, it would be open to the State to register societies for the purpose of looking after children or they may themselves start some kind of corporation to do this.

Therefore, if my friends contend that the statement, which I am making in all sincerity, that there is every kind of provision which the State may make for the purpose of protecting children under the entries which are included in List II, I think there is no purpose, in having a separate entry dealing with the protection of children. As I stated, protection of children cannot be a subject of legislation; it can be the object, purpose of legislation.

**Dr. P. S. Deshmukh :** You have made provision for the protection of wild birds, even!

**The Honorable Dr. B. R. Ambedkar:** I can quite see both of my Friends are very persistent in this matter. I would therefore request them to withdraw their amendment on the assurance that the Drafting Committee in the revising stage will go into the matter and if any such entry can be usefully put in any of the Lists, they will consider that matter and bring a proposal before the House. At this stage, I find it rather difficult to accept it because I have not had sufficient time to devote myself to a full consideration of the subject which is necessary before such an entry is introduced.

**Mr. Vice-President:** Does Dr. Deshmukh wish to press his amendment?

**Dr. P. S. Deshmukh :** I would like to request Dr. Ambedkar at least to say that by the time my next amendment for independent entry is reached, he will be able to say something more favourable than he has been able to say now.

**The Honorable Dr. B. R. Ambedkar:** I will consider the whole matter.

*[The amendment was withdrawn. Entry 6 was added to the Concurrent List.]*

## ENTRY 15

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" that for entry 15 of List 131, the following entry be substituted :—

' 15. Actionable wrongs ' "

The words which I seek to omit are really unnecessary.  
(The motion was adopted. Entry 15 as amended was added to the Concurrent List.)

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### NEW ENTRY 17-A

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 17 of List III, the following entry be inserted :—

' 17-A. Vocational and technical training of labour '."

**[Entry 17-A as amended was added to the Concurrent List.]**

### ENTRY 20

**The Honorable Dr. B. R. Ambedkar:** Sir, I move:

" That for entry 20, the following entry be submitted :

' 20. Drugs and poisons, subject to the provisions in entry 62 of List I with respect to opium

!." (Mr. Kamath did not move his amendment.)

(The amendment was adopted.)

(Entry 20, as amended, was added to the Concurrent List.)

### ENTRY 21

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 21 of List III, the following entry be substituted :—

' 21. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied '."

(The amendment was adopted.)

Entry 21, as amended, was added to the Concurrent List.

### NEW ENTRY 25-A

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 25 of List III, the following new entry be inserted :—

' 25-A. Vital statistics including registration of births and deaths '."

**[The motion was adopted. Entry 25A was added to the Concurrent List.]**

### ENTRY 26

**The Honorable Dr. B. R. Ambedkar:** Sir, I beg to move :

" That for entry 26 of List III the following entry be substituted :—

' 26. Welfare of labour including conditions of work, provident funds, employers liability, workmen's compensation, invalidity and old age pensions and maternity benefits '."

**[The amendment was adopted. Entry 26, as amended, was added to the Concurrent List.]**

### **NEW ENTRY 26-A**

**\*\*\***

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 26 of List III, the following entry be inserted :—

' 26-A. Social insurance and social security '." (Entry 26-A was added to the Concurrent List.)

### **NEW ENTRY 26-B**

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**The Honorable Dr. B. R. Ambedkar:** Sir, may I explain? There seems to be a certain amount of confusion and misunderstanding about the *entries* in the List. With regard to my Friend Dr. Deshmukh's amendment, he wants welfare of peasants, farmers and agriculturists of all sorts. Well, I would like to have some kind of a clear conception of what these omnibus words, " agriculturists of all sorts " mean. Does he want that the State should also undertake the Welfare of zamindars who pay Rs. 5 lakhs as land revenue?

**Shri R. K. Sidhva :** You can drop those words.

**The Honorable Dr. B. R. Ambedkar:** It will also include malguzars. Before I accept any entry, I must have in my mind a clear and consistent idea as to what the words mean. The word " agriculturists " has no precise meaning. It may mean a rack-renter. It may mean a person who is actually a cultivator. It may mean a person who has got two acres. It may also mean a person who has five thousand acres, or five lakhs acres.

**Dr. P. S. Deshmukh :** I am prepared to omit that particular expression.

**The Honorable Dr. B. R. Ambedkar:** That is one difficulty I find. The second point is my Friend Dr. Deshmukh does not seem to pay much attention to the different entries and what they mean. So far as agriculture is concerned, we have got two specific entries in List II—No. 21 which is Agriculture and No. 24 which is Land. If he were to refer to these two entries he will find...

**Dr. P. S. Deshmukh :** What fallacious arguments are being advanced ! For that matter. Labour welfare is a specific entry and yet you wanted separate

provision for their vocational training? Do not advance fallacious arguments.

**The Honorable Dr. B. R. Ambedkar:** It is not my business to answer questions relating to the faults of administrations. I am only explaining what the entries mean. As I said, we have already got two entries in List II. Entry 21 is there for Agriculture " including agricultural education and research, protection against pests and prevention of plant diseases ".

**Dr. P. S. Deshmukh :** Then why do you want " welfare of labour "?

**The Honorable Dr. B. R. Ambedkar:** Why can't you have some patience? I know my job. Do you mean to say I do not know my job? I certainly know my job.

**Dr. P. S. Deshmukh :** I know your attitude also. Do not try to fool everybody!

**The Honorable Dr. B. R. Ambedkar:** There is already an entry which will empower any State to do any kind of welfare work not merely with regard to agriculture but with regard to agriculturists as well. In addition to that we have entry 24 where it is provided that laws may be made with regard to " rights in or over land, land tenures including the relation of land-lord and tenant ". All the economic interests of the peasants can be dealt with under this entry. Therefore, so far as entries are concerned there is nothing that is wanting to enable the Provincial Governments to act in the matter of welfare of agricultural classes.

Then I come to the question raised by my Friend Mr. Sidhva which, I think, is a very legitimate question. Hill question was what was the connotation of the word " labour " and he asked me a very definite question whether ' labour ' meant both industrial as well as agricultural labour. I think that was his question. My answer is emphatically that it includes both kind's of labour. The entry is not intended to limit itself to industrial labour. Any kind of welfare work relating to labour, whether the labour is industrial labour or agricultural labour, will be open to be undertaken either by the Center or by the Province under entry 26.

Similarly, conditions of work, provident funds, employers' liability workmen's compensation, health insurance, including invalidity pensions—all these matters—would be open to all sorts of labour, whether it is industrial labour or agricultural labour. Therefore, so far as this entry. No. 26, is concerned, it is in no sense limited to industrial labour and therefore the kind of amendment which has been proposed by my Friend Dr. Deshmukh is absolutely unnecessary, besides its being—what I might call—vague and indefinite, to which no legal connotation can be given.

**Dr. P. S. Deshmukh :** Is there no class of persons except agricultural labour in this country? Has Dr. Ambedkar ever heard of a class called " farmers "

and " peasants " ?

**The Honorable Dr. B. R. Ambedkar:** Their welfare will be attended to under entries 21 and 24 of the Provincial List, as I have already explained.

*[Dr. P. S. Deshmukh's amendment was negatived. Dr. Ambedkar's amendment was adopted. Entry 27, as amended was added to the Concurrent List.]*

### ENTRY 27

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 27 of List III, the following entry be substituted :—

' 27. Employment and unemployment ' "

The amendment was adopted.

Entry 27, as amended, was added to the Concurrent List.

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### ENTRY 28

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**Mr. Vice-President:** I will now put the question.

**The Honorable Dr. B. R. Ambedkar:** I want to say a word. The words " trade union " with regard to welfare of labour have a very wide connotation and may include trade unions not only of industrial organisations but may also include trade unions of agricultural labour. That being so, I am rather doubtful whether by introducing the word ' industrial ' here, we are not trying to limit the scope and meaning of the term ' trade union '. But I am not moving any amendment. I would like to reserve an opportunity to the Drafting Committee to examine the term and to consider this. I want the entry to stand as it is now. I have expressed my doubt that in view of the wide connotation of ' trade union ', a part of the entry may require amendment.

**Mr. Vice-President:** Subject to what Dr. Ambedkar says, I put entry 28 to vote. The question is :

" That entry 28 stand part of List III.

(The motion was adopted.)

Entry 28 was added to the Concurrent List.

### NEW ENTRY 28-A

**The Honorable Dr. B. R. Ambedkar:** I move :

" That after entry 28 of List III, the following new entry be inserted :—



' 28-A. Commercial and industrial monopolies, combines and trusts '." The motion was adopted. Entry 28-A was added to the Concurrent List.

## ENTRY 29

**Mr. Vice-President:** As there is no amendment to entry 29, I will put it to vote. Entry 29 was added to the Concurrent List.

**Dr. P. S. Deshmukh :** Sir, a part of this amendment of mine was very kindly accepted yesterday. But, so far as the wording is concerned, we have yet to decide it. When we were discussing the State List, it was decided that we should transfer ' adulteration food ' to List III and therefore it would probably be relevant if we take up the wording of this entry at this stage. At the same time I would like that the first amendment of mine should also be accepted.

**The Honorable Dr. B. R. Ambedkar:** May I draw attention to the fact that the introduction of entry 29A has already been covered by entry 61 A in List I which has been passed by the House in much wider terms? The words used are " goods " which will include agricultural products, etc. Similarly 29B was accepted yesterday on the motion of Mr. Maitra and it is now entry 20A in List III.

**Dr. P. S. Deshmukh :** I accept the first part of my friend's suggestion. I do not move for adding 29A. But I am not clear whether it is the mere transposition of the entry as it stood in List II that is proposed?

**The Honorable Dr. B. R. Ambedkar:** It is transferred to Concurrent List as 20A. That was the motion passed by the House.

**Dr. P. S. Deshmukh :** Would it not be better to enlarge its scope?

**The Honorable Dr. B. R. Ambedkar:** ' Adulteration of food ' includes everything, I think.

**Dr. P. S. Deshmukh :** If that is so, I do not move this amendment.

**Mr. Vice-President:** Then I will put entries 30 and 31 to vote. Entries 30 and 31 were added to the Concurrent List.

## NEW ENTRY 31-A

**The Honorable Dr. B. R. Ambedkar:** I move :

"That after entry 31, the following new entry be inserted:—

'31-A. Ports, subject to the provisions of List I with respect to major ports '."

**[Motion was adopted. Entry 31-A was added to the Concurrent List.]**

## ENTRY 32

**The Honorable Dr. B. R. Ambedkar:** I move :

" That entry 32 of List III be deleted." This has been transferred to List 1. Entry 32 was deleted from the Concurrent List.

### ENTRY 33

**The Honorable Dr. B. R. Ambedkar:** I move :

" That entry 33 of List m be deleted."

As I said, this also has been transferred to List 1.

Entry 33 was deleted from the Concurrent List.

### ENTRIES 33A AND 33B

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 33 of List III, the following new entries be inserted :—

' 33A. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

33B. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.' "

(Amendment No. 296 was not moved.)

***[Entries 33A and 33B were added to the Concurrent List.]***

### ENTRY 34

**Shri Brajeshwar Prasad:** ...Sir, there is another aspect of the question to which I would like to draw the attention of the House. Entry 34 reads thus:

" Economic and social planning."

What about political planning?

**Some Honorable Member :** It will be too disastrous.

**The Honorable dr. B. R. Ambedkar:** It can be done by way of amendment of the Constitution.

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**The Honorable Dr. B. R. Ambedkar:** Sir, I am very sorry but I cannot accept this amendment moved by Shrimati Purnima Banerji. The introduction of the word " education " seems to me to be quite unnecessary. The word " social " is quite big enough to include anything that relates to society as a whole except, of course, religious planning, and a contradiction would be only between ' social ' and ' religious '. What the State would not be entitled to plan would be ' religions '; everything else would be open to the State.

With regard to the observations of my Honorable Friend Shri Rohini Kumar Chaudhuri, I think he will realize that this entry finds a place in the Concurrent List and the State also would have the freedom to do its own planning in *its* own way. It is only when the Center begins to have a plan and if that plan conflicts with the plan prepared by the State that the plan prepared by the State will have to give way and this is in no sense an encroachment upon the planning power of the State and therefore, this entry, I submit, should stand in the language in which it stands now.

**Mr. Vice-President:** The question is :

" That for entry 34 of List III, the following be substituted :—•

' 34. Economic, educational and social planning '." The amendment was negatived.

**[Entry 34 was added to the Concurrent List.]**

### ENTRY 34-A

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That after entry 34 of List III. the following new entry be inserted :—

' 34A. Archaeological sites and remains.' This would be Concurrent.

**[Entry 34A was added to the Concurrent List.]**

### ENTRY 35

**The Honorable dr. B. R. Ambedkar:** Sir, I move :

" That for entry 35 of List III, the following entry be substituted :—

' 35. The principles on which compensation for property acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose is to be determined and the form and the manner in which such compensation is to be given.' "

(The amendment was adopted)

**Entry 35, as amended was, added to the concurrent List.**

### ENTRY 35-A

**The Honorable Dr. B. R. Ambedkar:** Sir, I move:

" That after entry 35 of List III, the following new entry be inserted :—

' 35A. Trade and commerce in and the production, supply and distribution of the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest.'

(The motion was adopted.)

**Entry 35A was added to the Concurrent List.**

## ENTRY 36

**The Honorable Dr. B. R. Ambedkar:** Sir, I move :

" That for entry 36 of List III, the following entry be substituted :—

' 36. Industries and statistics for the purposes of any of the matters specified in list II or List III.'

**Mr. President:** There is no amendment.

*[Entry 36 was added to the Concurrent List.]*

## NEW ENTRY

**Mr. President:** There is new entry proposed by Pandit Govind Ballabh Pant.

(Amendment No. 144 was not moved)

**Dr. P. S. Deshmukh :** Sir, I move:

" That the following new entry be added in List III :—

' Protection of children and youth from exploitation and abandonment, *vide* article of (vi).'

Sir, I had moved similar amendments on two occasions...

**The Honorable Dr. B. R. Ambedkar:** This amendment was considered along with other amendments and I gave a reply telling my friend that this matter will be considered by the Drafting Committee. He was then agreeable.

**Dr. P. S. Deshmukh :** My only submission is that the wording may be altered as the Drafting Committee may decide but provisionally the entry may be accepted as proposed by me. It should not merely be left to be considered by the Drafting Committee. Any wording that may be suitable may be put in; but there should be an entry which refers to the protection of children and youth from exploitation and abandonment. I hope Dr. Ambedkar will kindly accept this.

**The Honorable Dr. B. R. Ambedkar:** I have told my friend that if I find that the purpose which he has in mind is not covered by any of the other entries, I will do my best to introduce some such entry. I have given him that assurance.

**Dr. P. S. Deshmukh :** This is a question to which I and at least some Members of the House attach very considerable importance. . .I hope. Sir, no damage will be done if we have an entry like the one I have proposed in the case of children.

**The Honorable dr. B. R. Ambedkar:** I will give my best consideration to the matter. I am in entire sympathy with its object. What more can I say?

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**Mr. Naziruddin Ahmad** : One speaker has just now given out that prostitution should be entirely prohibited...

**The Honorable Dr. B. R. Ambedkar**: Is this a question which we need debate? The only question is whether there is power with the State or with the Center or should it be Concurrent. How the power is to be exercised whether to permit partially or prohibit completely is a matter for each Legislature, which we must leave to the legislature.

**Mr. Naziruddin Ahmad** : My submission is that it is relevant. The amendment provides for "regulation and control of prostitution."...

**Shri V. I. Muniswamy Pillay** (Madras : General) : I wish to speak, Sir.

**Mr. President**: Closure has been moved. The question is :

" That the question be now put "

The motion was adopted.

**The Honorable Dr. B. R. Ambedkar**: Sir, there is enough power given to the State under these entries to regulate these matters, namely, either for dealing with public houses or having some large-scale farming. If my Friend, Dr. Deshmukh were to refer to List II, entry I, which deals with public order, and entry 4 which deals with police and the Concurrent entry which deals with criminal law, he will find that there is more than enough power given to regulate these matters. If he were to refer to entry 24 dealing with land, entry 21 dealing with agriculture in the State List, he will find that there is more than enough power in the States to have state farms or whatever they like.

Therefore, the only question that remains, is this, whether this subject relating to the creation of farms and the regulation of public houses should be in the Concurrent List. In my judgement, the criterion to decide whether this matter should be in the Concurrent List or in the State List is whether these matters are of all-India concern or of purely local concern. In my judgement prostitution, the regulation of public houses, and creation of farms are matters of local concern and it is therefore better to leave them to be dealt with by the States. They have got more than enough power for that. I do not know how the Center can do the job. The Center has not got any agricultural land. If the Center wants to establish a farm, the Center has to acquire the property from the farmers. The same thing could be done by the State. I do not see what purpose would be served by having these entries in the Concurrent List; and it must also be remembered that our States which we call States are far bigger than many States in Europe.

**Shrimati G. Durgabai**: Will Dr. Ambedkar make one point clear? The entry speaks of regulation or prohibition of prostitution. I do not understand the meaning of " regulation " here, and I think it should be complete prohibition.

**The Honorable Dr. B. R. Ambedkar:** The States can regulate them and also prohibit them. The States can do it.

(All amendments were negatived)

### **NEW ENTRY 88-A**

**The Honorable Dr. B. R. Ambedkar:** I am prepared to accept the amendment moved by the 58 gentlemen.

**Shri Mahavir Tyagi :** May I inform you. Sir, that a large section of the House would like the deletion of the entry and so you might kindly agree to hold over the item for further consideration of the Drafting Committee?

**The Honorable Dr. B. R. Ambedkar:** Sir, if the mover of this amendment cares to move it. I am prepared to accept it.

**Shri Ramnath Goenka (Madras : general) :** Sir, the other day, you requested Dr. Ambedkar to be ready with his alternative proposal.

**The Honorable dr. B. R. Ambedkar:** He did not say anything of that kind.

**Shri Ramnath Goenka:** This item will take some time. Sir.

**The Honorable Dr. B. R. Ambedkar:** Sir, the amendment is here.

**Shri Ramnath Goenka:** What I suggest is that we could get in touch with the Drafting Committee and come to a formula acceptable to all.

**The Honorable dr. B. R. Ambedkar:** This is a formula which you have proposed.

**Shri Ramnath Goenka:** We will have the benefit of consultation with you.

**The Honorable dr. B. R. Ambedkar:** Sir, I am prepared to accept entry 88A if they move it.

**Shri S. Nagappa:** It has been moved.

**The Honorable Dr. B. R. Ambedkar:** It has not been moved yet. That was entry 88A in List I—not in the State List. Objection was taken that it was not in order and it was not moved. Therefore, if Mr. Goenka wishes to move it...

**Shri Deshbandhu Gupta:** Sir, I formally move that the matter be held over.

**The Honorable Dr. B. R. Ambedkar:** Why? We tried to finish the whole list. That is why we hurried up, not allowing many Members to speak to the extent they used to. Now that we have got a clear-cut amendment signed by many people I do not see why it should be held over.

**Shri Deshbandhu Gupta:** It is not in a clear-cut form as Dr. Ambedkar himself saw something objectionable in the draft and was prepared to help as with a better draft.

**Mr. President:** As I understood Dr. Ambedkar the other day, the only question was whether it should be in List I or List II. He said the question of policy had to be decided.

**The Honorable Dr. B. R. Ambedkar:** If you want to put it in List I, I am prepared to accept it.

**The President:** So far as the particular place where this entry will go, that is to be left to the Drafting Committee.

**The Honorable Dr. B. R. Ambedkar:** The whole trouble is this. This entry was originally in List II. There objection was that it would not be in List II but it should be in this form in List 1. I am prepared to accept that if they want it.

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**Shri Deshbandhu Gupta:** Sir, on a point of information, may I inquire as to what will happen to entry No. 58 in the second List which was held over yesterday?

**Mr. President:** It would go.

**Shri Deshbandhu Gupta:** It was held over yesterday because these two go together.

**Mr. President:** It was held over because there was an amendment which wanted to transfer this to List II. If it is passed in List I then that amendment will be out of order.

**Shri Deshbandhu Gupta:** There are two amendments. There is one that this may be transferred to List I and there is another defining the scope of entry 58. The amendment was held over yesterday because this matter was not before the House at that time. They must go together.

**The Honorable dr. B. R. Ambedkar:** I am not bound to accept it. They do not go together. I refuse to accept that.

**Mr. President:** There was an amendment. No. 122, consideration of which was held over because of this amendment. If the amendment which has been just moved is accepted then in that case amendment No. 122 becomes out of order, and the only proposition before the House will be Dr. Ambedkar's proposition namely amendment No. 121.

**Shri Ramnath Goenka:** Will there not be a consequential amendment in List II? In the State List certain powers are given to the State for taxes on sale as well as on advertisement. If this is transferred to List I, then the consequential amendment of which we have given notice...

**Mr. President:** The notice is that it be included in List 1. If it is taken in List I then it goes out.

**Shri Ramnath Goenka :** But the exception will have to be provided for in List II in the entry; sale of goods excepting newspapers.

**Mr. President:** It is not necessary.

**The Honorable Dr. B. R. Ambedkar:** It is not a consequential amendment

at all. Both the amendments are quite independent. One amendment is that the entry should be expanded by the addition of a new entry to be called 88-A. Then there is another amendment which is amendment to my amendment to entry 58 in List II dealing with sales tax. That amendment says that the word " goods " should be so qualified as to exclude newspapers. That will be dealt with on its own merits. The immediate question we have to deal with is whether List I is to be expanded, by the addition of entry 88-A in terms as moved here.

**Shri Ramnath Goenka:** The position is this. We have proposed an entry in List I that taxes on newspapers including advertisements therein, should be transferred to List I and that the Provinces should not have the authority to levy and taxes on newspapers. Therefore the amendment No. 57 is a consequential amendment to the amendment No. 122 in entry 58 in List II. So both these amendments will have to be taken together. Yesterday when this question of entry 58 in List II came before us, you put it off until you gave a ruling and said a decision could be taken together on these entries.

**The Honorable Dr. B. R. Ambedkar:** Take them one by one. Let both the amendments be put one after the other.

**Shri Ramnath Goenka:** May I suggest. Sir, that we put entry 58 in List II first and then 88-A?

**The Honorable Dr. B. R. Ambedkar:** You can have it in any way you like, but I want to tell you that voting in a particular manner on the second amendment would be inconsistent with voting on the first in another manner. It will be open to the House to accept the one and reject the other.

**Shri Ramnath Goenka:** I would like to have your ruling on this matter. If you transfer the taxes on newspapers to List I then it cannot have any place in List II also. If it has a place in List I then it necessarily goes out from List II.

**The Honorable Dr. B. R. Ambedkar:** It will go out of List II only so far as taxes are concerned. But so far as the sale of goods is concerned it would remain. You want to get that out also? Your object, if I understand, is two fold, namely, that the newspapers should not be liable to any duty and should not be liable to any tax under the Sales Tax Act also. I am not prepared to give you both the advantages, to be quite frank.

**Shri Ramnath Goenka :** May I request you. Sir, to hold this matter over till Monday morning so that we can put our heads together and come to you, because whatever the interpretation, what is said, is the object of our amendment. If that object is not carried we will have to put in other amendments. But that is our intention. We are only laymen and we will be guided by Dr. Ambedkar. The entire taxation should be taken away from the Provinces to the Center. If that purpose is not being carried out I am afraid



some other amendment will have to be moved which will have the effect of carrying out our intentions. These are our intentions.

**Mr. President:** Dr. Ambedkar, will you object if the matter is held over?

**The Honorable Dr. B. R. Ambedkar:** I will be quite frank about it. I have a mandate to accept entry 88A. I am prepared to follow that mandate and accept entry 88A. I have no such mandate with regard to the other thing (amendment No. 122). I am sure that it will be difficult to accept it. To have a complete exemption from any kind of taxation on newspapers is to me an impossible proposition.

**Shri Ramnath Goenka:** It is not so. I want taxation to be left to the Center and not the Provinces. If I may tell Dr. Ambedkar, the mandate was that it should be taken away from the Provinces.

**The Honorable Dr. B. R. Ambedkar:** You are not to interpret the mandate for me. I know what it is. It is quite clear to me.

**Shri Ramnath Goenka :** As it is, I am interpreting it to you. (Interruption).

**Shri Deshbandhu Gupta:** Since Dr. Ambedkar has referred to the mandate I may make it clear that when this question was taken up with the authority which gave the mandate, it was absolutely clear that the two amendments went together. We wanted this tax to remain a Central tax and not a Central as well as a provincial tax.

**The Honorable Dr. B. R. Ambedkar:** It is not right to refer here to matters discussed elsewhere. But, as I said, I am quite prepared to abide by that mandate. The other matter was brought in surreptitiously by our friends after they heard what I said in another place as to what a mess they had made by bringing in this amendment.

**Shri Ramnath Goenka:** As Dr. Ambedkar suggests that we have made a mess we want a way out of the mess.

**(Interruption)**

**Mr. President:** I find there is a much feeling in the matter. So we had better take it up on some other day when the feelings are a bit cooler....

#### **FIFTH SCHEDULE**

**Mr. President:** We will take up the Fifth Schedule.

**The Honorable Dr. B. R. Ambedkar:** (Bombay : General) : Sir, I move:: That for the Fifth Schedule, the following Schedule be substituted:—

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